THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.24544 of 2005

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Dated:29.11.2005

Between:

D. Basi Reddy, S/o. Nagi Reddy,
Kurnool District,

..... PETITIONER

AND

The Director of Mines and Geology, B.R.K.R. Buildings, 8th Floor,
Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.24544 of 2005

ORDER:

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The petitioner challenges the certificate issued by the Mandal Revenue officer, Dhone, Kurnool District, called “Family Member Certificate” of the deceased D.Sivasankar Reddy, S/o.D.Subba Reddy, who is the husband of the fourth respondent. He also impugnes the consequential proceedings of the second respondent dated 17.07.2002, whereby and whereunder placing reliance on the certificate issued by the Mandal Revenue Officer, the second respondent declared the fourth respondent as successor lessee in respect of the mining lease for Limestone/Dolomite and White Shale in various extents of land in Survey Nos.82/1 to 82/8.

Late D.Sivasankar Reddy was the original lessee, who was granted lease in 1997 and 1999. After his death, the fourth respondent obtained Family Member Certificate in L.Dis.No.204/2002, dated 25.04.2002, and made a representation to the second

respondent on 27.06.2002 requesting to declare as successor lessee. By proceedings dated 17.07.2002, the second respondent came to the conclusion that the fourth respondent and her son and daughter are the legal heirs of D.Sivasankar Reddy, who expired on 11.02.2002, and accordingly declared her as the successor lessee to continue the mining operations. The petitioner alleges that he, late Subba Reddy (father-in-law of the fourth respondent) and D.Sivasankar Reddy, S/o.Subba Reddy, constituted Hindu Joint Family, that the lands in question were purchased by the petitioner with the joint family funds, and therefore, he is also entitled to be declared as successor lessee in respect of the leased lands for mining. He further contends that the fourth respondent obtained Family Member Certificate by misrepresenting, and that the impugned Family Member Certificate is contrary to the Family Member Certificate of D.Subba Reddy, dated 29.05.2002, which includes the petitioner, the fourth respondent and others. According to the petitioner, the consequential proceedings of the second respondent are invalid and illegal.

The learned Counsel for the petitioner strenuously made submissions with reference to the contentions as noticed hereinabove. The learned Government Pleader for Industries, opposing the writ petition, invites the attention of this Court to Rule 54 of the Mineral Concession Rules, 1960 (for short 'the Rules'), and submits that in view of various disputed questions of fact, the writ petition is not maintainable, and the petitioner has an effective alternative remedy to prefer a revision to the Central Government against the order passed by the second respondent.

Even according to the petitioner's Counsel, Sivasankar Reddy died on 11.02.2002, and the fourth respondent obtained Family Member Certificate on 25.04.2002. Considering her application, the second respondent passed orders on 17.07.2002. But, this writ petition is filed challenging the Family Member Certificate after a period of three years. The delay and laches have not been properly explained, except stating that the petitioner came to know about the proceedings of the second respondent recently, and immediately approached this Court. Secondly, whether D.Subba Reddy, the petitioner herein and the son of Subba Reddy constituted Hindu Joint Family along with the wife of Subba Reddy, the fourth respondent herein and their children is purely a disputed question of fact. It is also well settled that there is no presumption in law that a Hindu Joint Family owns properties, which are jointly owned by the members of the joint family. It is also well settled that the burden is always on the person who alleges that the property is the joint family property in which he/she has interest. Therefore, in this writ petition these issues cannot be decided. As rightly pointed out by the learned Assistant Government Pleader, Rule 54 of the Rules empowers the Central Government to entertain the revision petition against any order made by the State Government or any authority in exercise of powers conferred on it by the Mines and Minerals (Development and Regulation) Act, 1957 (for short 'the Act') or the Rules. When the second respondent issued proceedings on 17.07.2002 declaring the fourth respondent as successor lessee in respect of the mining lease, the said authority was only acting in accordance with various provisions of the Act, the Rules and the various guidelines issued by the Central Government. Therefore, the petitioner can avail the remedy under Rule 54 of the Rules. In this writ petition no relief can be granted.

In the result, the Writ Petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

29.11.2005

vs